

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

MINA G.,

Claimant,

vs.

INLAND REGIONAL CENTER,

Service Agency.

OAH CASE No. L 2006060031

**DECISION**

Administrative Law Judge Greer D. Knopf, State of California, Office of Administrative Hearings, heard this matter in San Bernardino, California on January 10, 2007.

Vince Toms, Inland Regional Center represented the service agency.

Mohsen G., the claimant's father appeared and represented the claimant Mina G. who was also present at the hearing.

The matter was submitted on January 10, 2007.

**ISSUE**

Is the claimant eligible for services from the service agency, the Inland Regional Center?

## FACTUAL FINDINGS

1. Claimant, Mina G. (the claimant or Mina) is a 21-year-old young man who has applied for services with the Inland Regional Center (the service agency or the regional center). The claimant's birthday is November 8, 1985. The claimant lives at home with his parents and his younger brother and sister.

2. The claimant has applied to the service agency for eligibility at the suggestion of his counselor at the State Department of Rehabilitation (DOR). The parties are in agreement that Mina does not have a diagnosis of cerebral palsy, autism, or mental retardation. Mina seeks eligibility because his father states he is unable to hold down a job and therefore cannot be self-sufficient now that he is an adult. The claimant seems to assert that he should be found eligible under the so-called 5<sup>th</sup> category wherein someone may be eligible for regional center services because he has is found to have a disabling condition closely related to mental retardation that requires treatment similar to that required for mentally retarded individuals. In the alternative, the claimant has a seizure disorder and seeks eligibility on that basis.

3. On October 17, 2006, a diagnostic team at the service agency, consisting of Psychological Assistant Michelle Lindholm (Lindholm) and Staff Psychologist Robert Zimmermann conducted an assessment of Mina. As part of the assessment, Lindholm reviewed all medical, psychiatric, educational, and employment records made available to her regarding Mina and she interviewed family members as well as Mina. After completing the assessment process, the diagnostic team concluded that Mina suffers from Attention Deficit Hyperactivity Disorder (ADHD) and Oppositional Defiant Disorder (ODD) and his verbal processing and cognitive abilities are in the low average to average range. He also is legally blind and suffers from hearing loss as well as a seizure disorder that is controlled by medication.

4. The diagnostic team found that Mina is not substantially handicapped by a qualifying developmental disability. He further does not suffer from any disabling condition that is closely related to mental retardation or that requires similar treatment. The diagnostic team concluded that Mina was not eligible for regional center services. Dr. M. Eliana Lois, M.D., the Chief of Medical Services at the regional center also concluded that the claimant is not eligible for regional center services. She also opined that Mina suffers from ADHD and ODD as well as low motivation. Dr. Lois recommends that Mina continue to pursue treatment for these mental disorders, but she does not believe the regional center can provide him with services. There was no evidence presented to contradict this expert opinion. Mina's counselor from the DOR testified that he has not benefited from their attempts to provide him with vocational training, but that testimony does not affect the persuasive evidence regarding Mina's diagnoses.

5. The claimant is a delightfully friendly and very socially interactive young man. His intellectual functioning is within the low average to average ranges. He is not

mentally retarded. His verbal reasoning skills are relatively good. He demonstrates lower abilities in performance activities, but this is likely due to his poor vision which leads to poor visual motor skill coordination. The claimant has graduated high school and been through vocational training at DOR. He has attempted to work at several jobs, but always fails to succeed in employment. He refuses to follow rules and has little ability to concentrate on assigned tasks. He has enrolled several times in college classes, but he always quits as soon as the work gets too hard. Mina has a very hard time following through and finishing anything he begins. These difficulties are the result of the claimant's ADHD and ODD. He needs treatment to address his ADHD and his low motivation and that is a very different type of treatment than the treatment that would be needed for a person with mental retardation. There was no evidence that Mina's difficulties in life are a result of a disabling condition that is closely related to mental retardation or that his condition requires similar treatment to that required for an individual with mental retardation. In fact, the weight of the evidence indicates that the claimant would be done a disservice if he is given similar treatment to those with mental retardation.

6. The claimant also does suffer from a seizure disorder. He was diagnosed with seizures at age four or five. However, since that time, Mina has been successfully treated with medication that has controlled his seizures for many years. He has not had a seizure now in several years. The evidence indicates in some places that Mina had his last seizure two years ago, but his father indicated in testimony that Mina has not had a seizure since 1995. Therefore, there is no evidence to indicate that the claimant's seizure disorder constitutes a substantial disability for Mina.

## LEGAL CONCLUSIONS

1. Eligibility for regional center services under the Lanterman Act is determined based in part on whether an individual is found to have a qualifying developmental disability. The qualifying developmental disabilities are listed in Welfare and Institutions Code section 4512, subdivision (a). These disabilities are: (1) Mental retardation; (2) Cerebral palsy; (3) Epilepsy; (4) Autism; or, (5) Conditions similar to mental retardation or requiring treatment similar to that required by mentally retarded persons. If an individual falls under one of these five conditions, then a determination must be made as to whether the condition occurred before the age of eighteen, whether it constitutes a substantial handicap, and whether the condition is expected to continue indefinitely, in order for the individual to meet the definition of developmentally disabled under the Lanterman Act. (Welf. & Inst. Code § 4512, subd. (a)).

2. The claimant herein has failed to establish that he falls within the qualifying definition of developmental disability under the Lanterman Act. The evidence persuasively established the claimant does not have a developmental disability that would qualify him for services under the Lanterman Act. The claimant herein has failed to establish that he is developmentally disabled under the Lanterman Act by reason of a 5<sup>th</sup> category diagnosis of a

condition requiring treatment similar to that required by mentally retarded persons in that there was no evidence to establish that the claimant has such a condition, as set forth in Findings 1-6.

3. Title 17, California Code of Regulations, section 54000 further explains what does not qualify as a developmental disability under the Lanterman Act. A developmental disability does not include a handicapping condition that is purely psychiatric or physical in nature or a condition that is purely a learning disability. The evidence indicates that the claimant suffers from psychiatric and physical disabilities and a severe learning disability, but not a qualifying developmental disability, as set forth in Findings 1-6.

4. The claimant also failed to establish that he qualifies for services under the Lanterman Act by reason of his seizure disorder. The evidence established that the seizure disorder does not constitute a substantial handicap for the claimant as required under Welfare and Institutions Code section 4512, subdivision (a), as set forth in Findings 1 and 6.

#### ORDER

Claimant's appeal to require the service agency to find he is eligible to receive regional center services under the Lanterman Act is hereby denied.

#### NOTICE

This is the final administrative decision. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within the State of California.

DATED: \_\_\_\_\_

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GREER D. KNOPF  
Administrative Law Judge  
Office of Administrative Hearings